

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BOGOTA PRIORITY

AMEMBASSY BRASILIA

AMEMBASSY BUENOS AIRES

AMEMBASSY CANBERRA

AMCONSUL CAPE TOWN

AMEMBASSY CARACAS

AMEMBASSY MADRID

AMEMBASSY MANILA

AMEMBASSY MEXICO

AMEMBASSY NEW DELHI

AMEMBASSY SEOUL

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AMEMBASSY TAIPEI

AMEMBASSY TEL AVIV

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AMEMBASSY WELLINGTON

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E.O. 11652:N/A

TAGS: ETRD

SUBJECT: PURCHASING ENTITIES OF THE CENTRAL GOVERNMENT

1. WORK ON DEVELOPING A GOVERNMENT PROCUREMENT CODE IN THE MTN, FOCUSED UP TO NOW MAINLY ON PROCUREMENT RULES AND PROCEDURES, IS MOVING FORWARD NOW TO NEGOTIATIONS ON CODE COVERAGE. AN EXCHANGE OF OFFER/REQUEST LISTS WILL PRECEDE ACTUAL BILATERAL NEGOTIATIONS ON ENTITIES MEANING THAT A PARTICIPATING COUNTRY IS EXPECTED TO TABLE A LIST OF PURCHASING ENTITIES WHICH IT OFFERS TO INCLUDE UNDER THE PROPOSED PROCUREMENT CODE WHILE ALSO MAKING REQUESTS OF OTHERS TO INCLUDE CERTAIN PURCHASING ENTITIES IN WHICH IT HAS AN INTEREST UNDER THE CODE.

2. DISCUSSIONS ON ENTITY COVERAGE ARE CURRENTLY UNDERWAY, AMONG A GROUP OF MAJOR DEVELOPED COUNTRIES WHICH INCLUDES THE U.S., THE EC, CANADA, JAPAN, SWITZERLAND AND THE NORDICS. THESE COUNTRIES HAVE ALREADY CIRCULATED THEIR OFFER LISTS, AND ARE PREPARING TO TABLE REQUEST LISTS IN THE NEAR FUTURE. THE U.S. HAS DEVELOPED REQUEST LISTS FOR THE COUNTRIES REPRESENTED IN THIS PLURILATERAL GROUP. WE ANTICIPATE THAT THE MTN SUBGROUP ON GOVERNMENT PROCUREMENT, WHICH WILL MEET JUNE 12-13, WILL AGREE THAT ALL COUNTRIES DESIRING TO PARTICIPATE IN COVERAGE NEGOTIATIONS SUBMIT REQUEST AND OFFER LISTS TO THE GATT SECRETARIAT BEFORE JULY 7.

3. THE NORMATIVE RULE PRESENTLY BEING DISCUSSED IN THE NEGOTIATIONS PROVIDES FOR CODE COVERAGE OF PROCUREMENT LIMITED OFFICIAL USE

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MENT ENTITIES UNDER THE DIRECT OR SUBSTANTIAL CONTROL OF THE CENTRAL GOVERNMENT. THESE ENTITIES USUALLY FALL INTO THREE CATEGORIES. THE FIRST INCLUDES GOVERNMENT MINISTRIES OR THEIR EQUIVALENTS TOGETHER WITH THEIR SUBORDINATE UNITS THAT ARE UNDER THE DIRECT CONTROL OF THE NATIONAL GOVERNMENT. A SECOND CATEGORY INCLUDES BOARDS, COMMISSIONS AND OTHER INDEPENDENT EXECUTIVE AGENCIES WHICH NONETHELESS ARE PART OF THE NATIONAL GOVERNMENT OPERATING ON THE BASIS OF ANNUAL BUDGETARY APPROPRIATIONS. (IN SOME COUNTRIES, HOWEVER, AN ENTITY WHICH SEEMINGLY OPERATES AUTONOMOUSLY IS ULTIMATELY RESPONSIBLE TO A PARLIAMENT THROUGH A MINISTRY.) A THIRD GROUP CONSISTS OF QUASI-PUBLIC ENTITIES WHERE THE NATIONAL GOVERNMENT HAS EXPLICIT OR RESIDUAL POWERS TO DIRECT OR INFLUENCE THE PROCUREMENT POLICY OF AN ENTITY. A CENTRAL GOVERNMENT MAY EXERCISE THIS AUTHORITY INDIRECTLY THROUGH THE APPOINTMENT OF PUBLIC MEMBERS TO BOARDS OF DIRECTORS OF AN ENTITY, BY ISSUE OF OPERATING FRANCHISES SUBJECT TO PERIODIC REVIEW OR RENEWAL, OR MAJORITY OWNERSHIP OF THE CAPITAL SHARES.

4. IN THE PREPARATION OF U.S. REQUEST LISTS, WE HAVE BEEN CAREFUL TO INCLUDE PURCHASING ENTITIES OF FOREIGN GOVERNMENTS WHICH PROVIDE VARIOUS PUBLIC SERVICES, AND ESPECIALLY IN THE FIELDS OF ENERGY, TRANSPORTATION AND COMMUNICATION. A SIGNIFICANT PART OF THE BENEFITS WHICH COULD ACCRUE TO OUR INDUSTRIES AS A RESULT OF THE CODE ARE TO BE FOUND IN THE OPPORTUNITIES TO COMPETE IN FOREIGN PUBLIC SECTOR MARKETS FOR SALE OF SOPHISTICATED U.S. PRODUCTS IN THESE AREAS. POTENTIAL FOREIGN BUYERS INCLUDE THE ELECTRIC POWER GENERATING AND DISTRIBUTING ORGANIZATIONS, SUPPLIERS OF GAS AND WATER, NATIONAL RAILWAYS AND AIRLINES, TELEPHONE AND TELEGRAPH COMPANIES, TELEVISION AND RADIO BROADCASTING, AIRPORTS, POSTAL SERVICES, AND THE LIKE.

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WE HAVE ALSO ATTEMPTED TO IDENTIFY AND LIST POTENTIAL FOREIGN PUBLIC BUYERS OF U.S.-MANUFACTURED COMPUTERS. ON THE OTHER HAD, WE HAVE NOT INCLUDED ENTITIES GENERALLY VIEWED AS PART OF THE LEGISLATIVE OR JUDICIAL BRANCHES NOR STATE-OWNED ENTERPRISES ENGAGED IN THE MANUFACTURE OF GOODS FOR RESALE.

5. NONE OF THE COUNTRIES IN WHICH ADDRESSEE POSTS ARE LOCATED HAVE SO FAR INDICATED A DEFINITE INTEREST IN ADHERING TO THE PROPOSED GOVERNMENT PROCUREMENT CODE. EVEN SO, THESE COUNTRIES CONSISTING OF OTHER DEVELOPED COUNTRIES AND THE MORE ADVANCED DEVELOPING COUNTRIES ARE CONSIDERED THE MOST LIKELY CANDIDATES FOR CODE ADHERENCE AND GOOD POTENTIAL MARKETS FOR U.S. PRODUCTS. THEREFORE WE WOULD LIKE TO BE ABLE TO SUBMIT REQUEST LISTS TO EACH OF THESE COUNTRIES.

6. BASED ON THE FOREGOING GUIDELINES, EMBASSY IS REQUESTED TO DEVELOP A LIST OF PURCHASING ENTITIES OF THE HOST COUNTRY UNDER THE DIRECT OR SUBSTANTIAL CONTROL OF THE CENTRAL GOVERNMENT. WE WOULD APPRECIATE IT IF THEY WOULD BE CABLED TO THE DEPARTMENT AS SOON AS POSSIBLE BUT NO LATER THAN JUNE 21. YOU ARE REQUESTED ALSO TO INDICATE WHICH OF THE ENTITIES WE SHOULD MAKE A SPECIAL EFFORT TO INCLUDE UNDER THE CODE ALONG WITH ANY SUPPORTIVE STATEMENTS FOR THIS JUDGEMENT. FURTHER, SUCH INFORMATION WHICH EMBASSY CAN PROVIDE ON THE METHOD AND DEGREE OF CONTROL WHICH THE CENTRAL GOVERNMENT MAINTAINS OVER SPECIFIC ENTITIES NOT UNDER ITS DIRECT CONTROL WOULD BE HELPFUL. MANY U.S. INDUSTRIES ARE PARTICULARLY COMPETITIVE IN PRODUCTS BOUGHT BY FOREIGN QUASI-GOVERNMENT ENTITIES. IN THE FACE OF FOREIGN CLAIMS THAT PARTICULAR ENTITIES ARE OUTSIDE CENTRAL

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GOVERNMENT CONTROL, HOWEVER, WE WILL NEED ARGUMENTS
OR EVIDENCE TO SHOW HOW PURCHASING DECISIONS OF THESE
ENTITIES ARE CONTROLLED OR AFFECTED BY THE CENTRAL
GOVERNMENT. VANCE

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